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January 29, 2003

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: CC Docket Nos. 01-338 and 02-33

Dear Ms. Salas:

On January 28, 2003, Duane Ackerman, Margaret Greene, Herschel Abbott, and I, met with Commissioner Jonathan Adelstein and Lisa Zaina, Senior Legal Advisor to the Commissioner, to discuss the Triennial Review. The attached documents formed the basis for the presentation.

I am filing this notice in the dockets identified above, as required by Section 1.1206(b)(2) of the Commission's rules, and request that you associate this notice with the record of those proceedings.

Sincerely,

Robert T Blau

Attachments

cc: Commissioner Jonathan Adelstein
Lisa Zaina
William Maher
Jeffrey Carlisle
Rich Lerner
Michelle Carey
Tom Navin

Triennial Review
BellSouth Corporation
January 28, 2003

Opportunities

- The FCC has the ability and the opportunity to promote facility-based competition and to stimulate investment throughout the telecom industry
- Small incremental steps and/or deferral to the states will not provide the direction needed
- Meaningful application of the Act's mandate and subsequent court directives can only result in extensive UNE relief

Current State of the Telecom Industry

➢ As a significant part of the U.S. economy and the core national infrastructure, the Telecom industry has the potential to be a long-term drag on the overall economy's growth and productivity.

- **Massive Excess Capacity -** Industry analysts estimate that less than 3% of the fiber in the US has been lit.

- **Diminished Investor Confidence and Constrained Access to Capital**
  - 6 of 7 major domestic wireline carriers' debt has been downgraded since January 2000. Of these companies, two are rated as "junk" and two others are near junk status.
  - Equity capital raised by Telecom carriers has declined from $51B in 2000 to just $7B through the first three quarters of 2002.

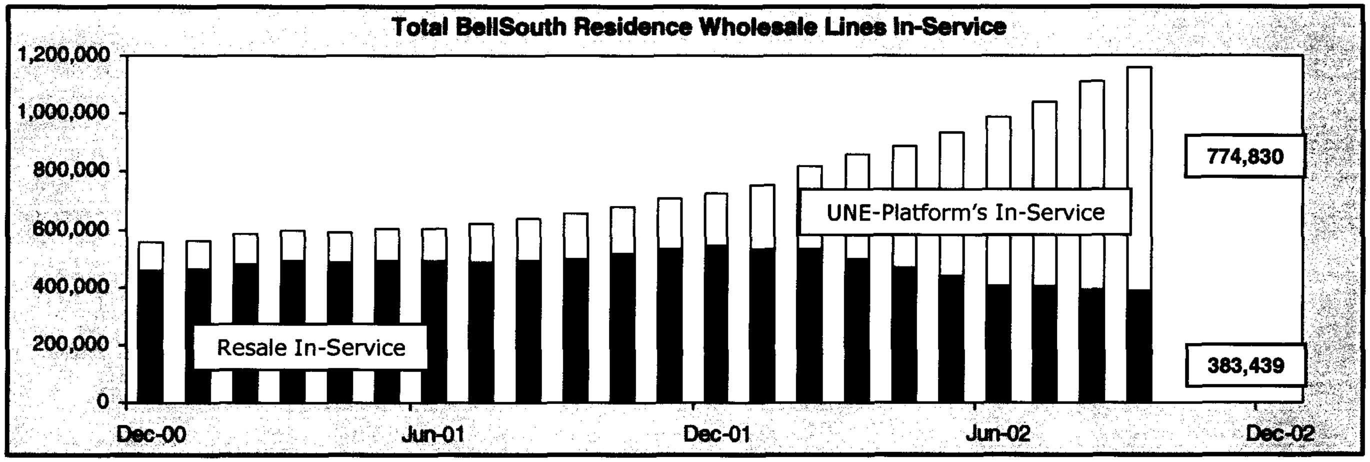
- **Reduced Capital Spending / Innovation** - Annual Telecom capital spending will decline from $97B in 2001 to a projected level of $69B in 2002 (28%).

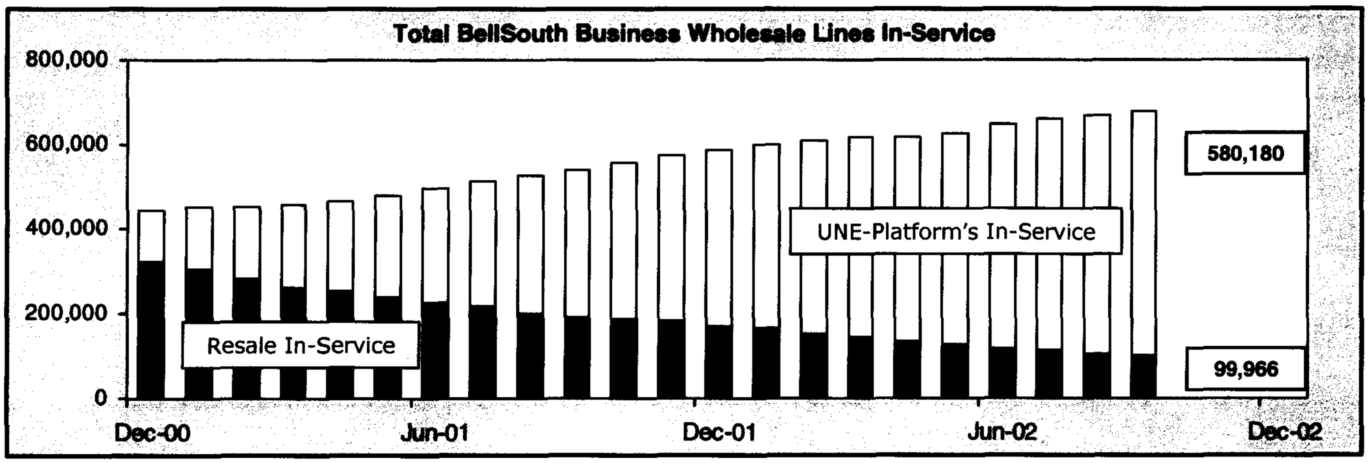
- **Declining Revenue Growth -** Telecom industry revenue growth has declined from +11% in 1998 to a -3% in 1st Qtr 2002.

- **Widespread Layoffs and Bankruptcies**
  - Over 80 bankruptcies have been filed in the Telecom sector since January 2000.
  - Telecom layoffs have exceeded all industries in 9 of the last 12 months, and announcements total more than 600,000 since January 2000.

Evidence of UNE-P Attractiveness

- As evidence of the rich margins available with UNE-P – *and the fact that UNE-P effectively affords competitors an opportunity to compete in the industry without placing their own investment at risk* -- demand for UNE-P has shown no sign of slowing in spite of turmoil in the industry.





Inconsistency With the Existing Social Goal-Based Retail Rate Structure

- It is also important note that, while retail and resale rates recognize the existing subsidy structure, theoretical cost-based UNE-P rates primarily encourage competition exactly where those subsidies exist – in metro business markets.

Actual Monthly BellSouth Basic Service Rates (as of 11/11/02) #

	Subsidized				Theoretical Cost			
	Residence		Business		UNE Loop		UNE – P**	
	Metro	Rural	Metro	Rural	Metro	Rural	Metro	Rural
AL	22	21	44	44	13	34	15	37
FL	17	14	38	28	11	27	13	28
GA	23	18	56	33	14	26	16*	25*
KY	24	20	42	44	11	31	14*	35*
LA	19	17	41	37	13	48	18*	55*
MS	25	21	45	43	12	44	14	47
NC	19	16	42	36	12	34	17	36
SC	21	19	51	41	15	27	17	30
TN	18	14	48	35	12	23	14*	32*

Basic Service Rates include SLC but exclude vertical services.

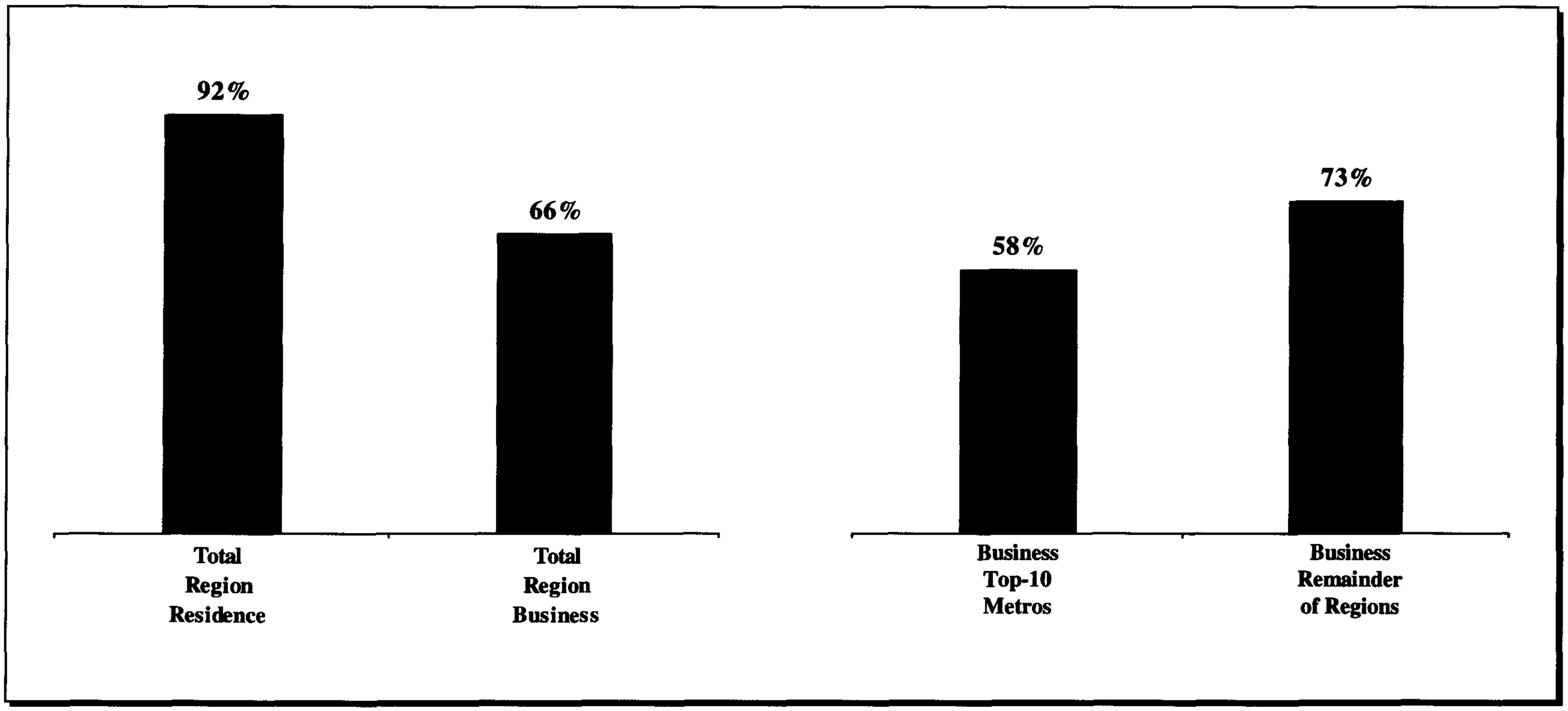
** *UNE-P includes loop/port/usage .*

* *UNE-P rates in GA, KY, LA and TN include all features at no additional cost. Therefore, the discounts to Retail rates are actually much greater than indicated on the chart in those states since the subsidized rates exclude feature revenue.*

Result: Cream-Skimming

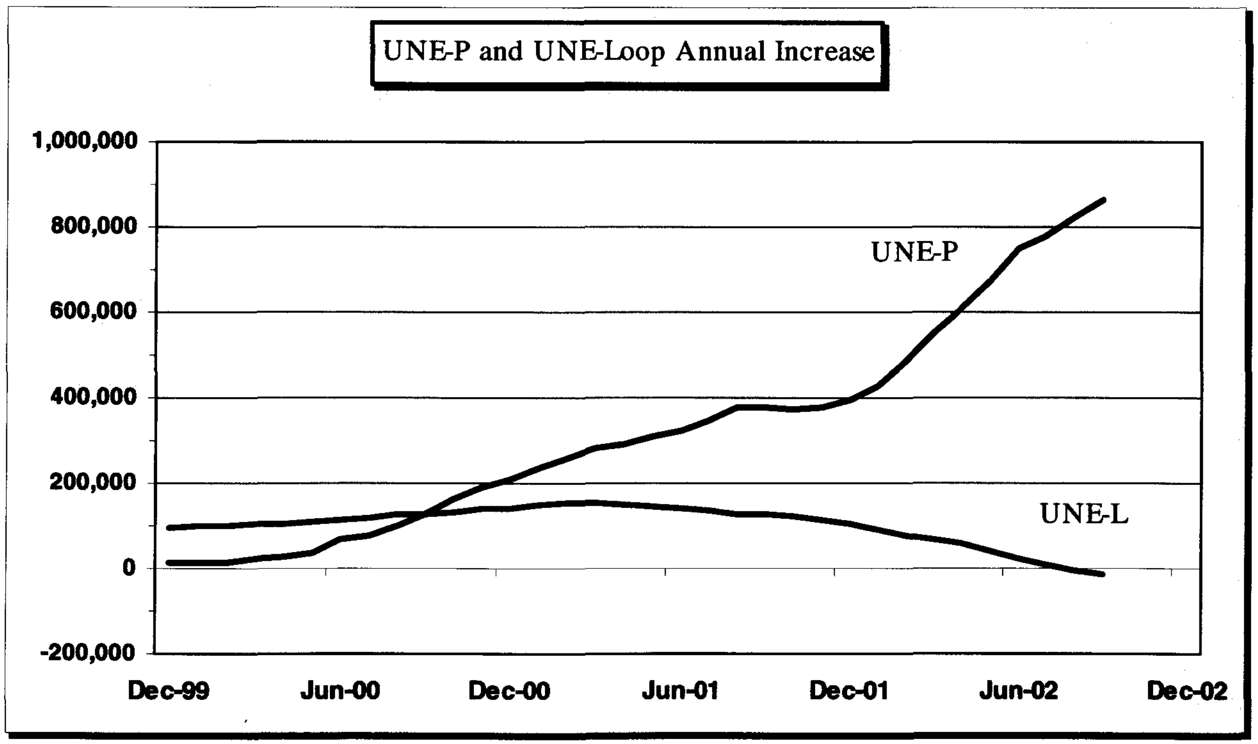
- The pattern of cream-skimming is evident in BellSouth's market share activity. Business line losses have been four times greater than Residence line losses, and Business line losses have been 1.6 times greater in the Top 10 metros than in the remainder of the region.

% BellSouth Retail Market Share (as of 09/30/02)



Unintended Outcome: Limited Non-ILEC Investment

- Although CLECs have deployed switches across the region, the attractiveness of UNE-P pricing has removed the incentive to utilize their own facilities. UNE-Loop demand has literally disappeared as more than one-half of the 346 active CLECs in BellSouth's region rely solely on BellSouth's network.



Jackson
Adelphia (1)
AT&T (2)
CGI (1)
Dixienet Communications (1)
Gulfpines Communications (1)
ITC^Deltacom (1)
Network Telephone (1)
WorldCom (1)
Xspedius Corp. (1)

Biloxi
ITC^Deltacom (1)
KMC Telecom (1)

Memphis
AT&T (1)
Intermedia Comunications (1)
ITC^Deltacom (1)
Level 3 (1)
Network Telephone (1)
Time Warner Telecom (1)
US LEC (1)
WorldCom (1)
XO (1)
Xspedius Corp. (1)

Nashville
Adelphia (1)
AT&T (2)
BTI (1)
ICG Communications (1)
Intermedia Communications (1)
ITC^Deltacom (1)
Level 3 (1)
Network Telephone (1)
NewSouth Communications (1)
Trivergent (1)
XO (1)
Xspedius Corp. (1)

Knoxville
AT&T (2)
BTI (1)
ITC^Deltacom (1)
US LEC (1)
WorldCom (1)

Chattanooga
AT&T (1)
Electric Power Board of Chattanooga (1)
ITC^Deltacom (1)
KMC Telecom (1)

Owensboro
E-TEL (1)
Touchtone (1)
VISION (1)

Louisville
Adelphia (1)
AT&T (3)
E.spire (1)
ICG (1)
Level 3 (1)
US LEC (1)

Raleigh
ALLTEL (1)
AT&T (1)
BTI (1)
Intermedia Communications (1)
ITC^Deltacom (1)
Time Warner Telecom (1)

Wilmington
BTI (1)
ITC^Deltacom (1)

Greensboro
ALLTEL (1)
AT&T (2)
BTI (1)
ITC^Deltacom (1)
KMC Telecom (2)
Level 3 (1)
Madison River (1)
Time Warner Telecom (1)
Trivergent (1)
US LEC (1)
Xspedius Corp. (1)

Charlotte
Adelphia (1)
ALLTEL (1)
AT&T (3)
BTI (1)
Connect Communications (1)
Intermedia Communications (1)
ITC^Deltacom (1)
Mpower (1)
Network Telephone (1)
Teligent (1)
Time Warner Telecom (1)
Winstar (1)

Greenville
BTI (1)
E.spire (1)
ITC^Deltacom (1)
KMC Telecom (1)
Level 3 (1)

Columbia
ALLTEL (1)
AT&T (2)
BTI (1)
E.spire (1)
ITC^Deltacom (1)
KMC Telecom (1)
South Carolina Net (1)

Charleston
ALLTEL (1)
BTI (1)
Daniel Island Media Co. (1)
ITC^Deltacom (1)
KMC Telecom (1)

Shreveport
CenturyTel (1)
CP-TEL Network Services (1)
Intermedia Communications (1)
ITC^Deltacom (2)
KMC Telecom (2)
Network Telephone (1)

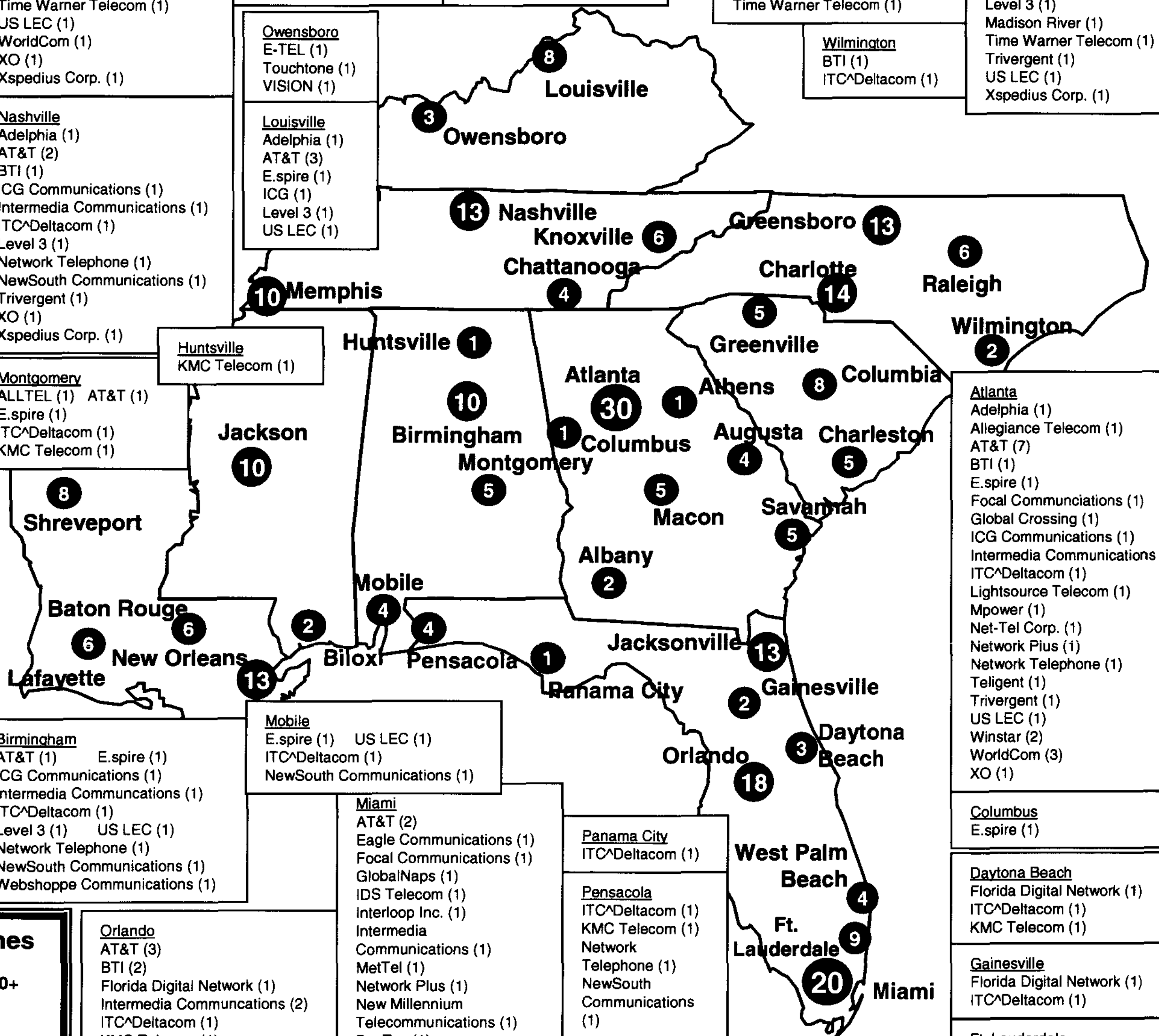
Lafayette
ITC^Deltacom (2)
Louisiana Competitive Telecommunications (1)
McLeodUSA (1)
Network Telephone (1)
Xspedius Corp. (1)

New Orleans
AT&T (1)
Columbia Telecomm (1)
Cox (1)
E.spire (1)
ITC^Deltacom (1)
Level 3 (1)
Madison River (1)
Network Telephone (1)
NewSouth Communications (1)
Reserve Long Dist. (1)
Stratos Telecom, Inc. (3)

Baton Rouge
Adelphia (1)
Advanced Telcom Group (1)
AT&T (1)
ITC^Deltacom (1)
KMC Telecom (1)
Network Telephone (1)

Huntsville
KMC Telecom (1)

Montgomery
ALLTEL (1) AT&T (1)
E.spire (1)
ITC^Deltacom (1)
KMC Telecom (1)



Atlanta
Adelphia (1)
Allegiance Telecom (1)
AT&T (7)
BTI (1)
E.spire (1)
Focal Communications (1)
Global Crossing (1)
ICG Communications (1)
Intermedia Communications (1)
ITC^Deltacom (1)
Lightsource Telecom (1)
Mpower (1)
Net-Tel Corp. (1)
Network Plus (1)
Network Telephone (1)
Teligent (1)
Trivergent (1)
US LEC (1)
Winstar (2)
WorldCom (3)
XO (1)

Columbus
E.spire (1)

Augusta
ALLTEL (1)
ITC^Deltacom (1)
KMC Telecom (1)
LECStar (1)

Savannah
ALLTEL (1)
Darien Communications (1)
ITC^Deltacom (1)
KMC Telecom (1)
LECStar (1)

Macon
AT&T (2)
Comm South (1)
ITC^Deltacom (1)
LECStar (1)

Albany
LECStar (1)
Touchtone Communications (1)

Athens
ITC^DeltaCom (1)

Mobile
E.spire (1) US LEC (1)
ITC^Deltacom (1)
NewSouth Communications (1)

Birmingham
AT&T (1) E.spire (1)
ICG Communications (1)
Intermedia Communcations (1)
ITC^Deltacom (1)
Level 3 (1) US LEC (1)
Network Telephone (1)
NewSouth Communications (1)
Webshoppe Communications (1)

Total CLEC Voice Switches

1-9 10-19 20+

Note:
- Switches are shown by LATA
- Parentheses indicate the number of switches by the company in that market

Source for CLEC Switch Information: Telcordia, *Local Exchange Routing Guide (LERG)* January, 2002

Orlando
AT&T (3)
BTI (2)
Florida Digital Network (1)
Intermedia Communcations (2)
ITC^Deltacom (1)
KMC Telecom (1)
Orlando Telephone (1)
Sprint (1)
Teligent (1)
Time Warner Telecom (2)
Winstar (1)
WorldCom (2)

Miami
AT&T (2)
Eagle Communications (1)
Focal Communications (1)
GlobalNaps (1)
IDS Telecom (1)
Interloop Inc. (1)
Intermedia Communications (1)
MetTel (1)
Network Plus (1)
New Millennium Telecommunications (1)
PaeTec (1)
Pointe Comm Inc. (1)
Trivergent (1)
US LEC (1)
Winstar (1)
WorldCom (3)
XO (1)

Panama City
ITC^Deltacom (1)

Pensacola
ITC^Deltacom (1)
KMC Telecom (1)
Network Telephone (1)
NewSouth Communications (1)

Jacksonville
Adelphia (1) ALLTEL (1)
AT&T (4) BTI (1)
E.spire (1) Florida Digital Network (1)
Level 3 (1) Intermedia Communications (1)
ITC^DeltaCom (1) US LEC (1)

Daytona Beach
Florida Digital Network (1)
ITC^Deltacom (1)
KMC Telecom (1)

Gainesville
Florida Digital Network (1)
ITC^Deltacom (1)

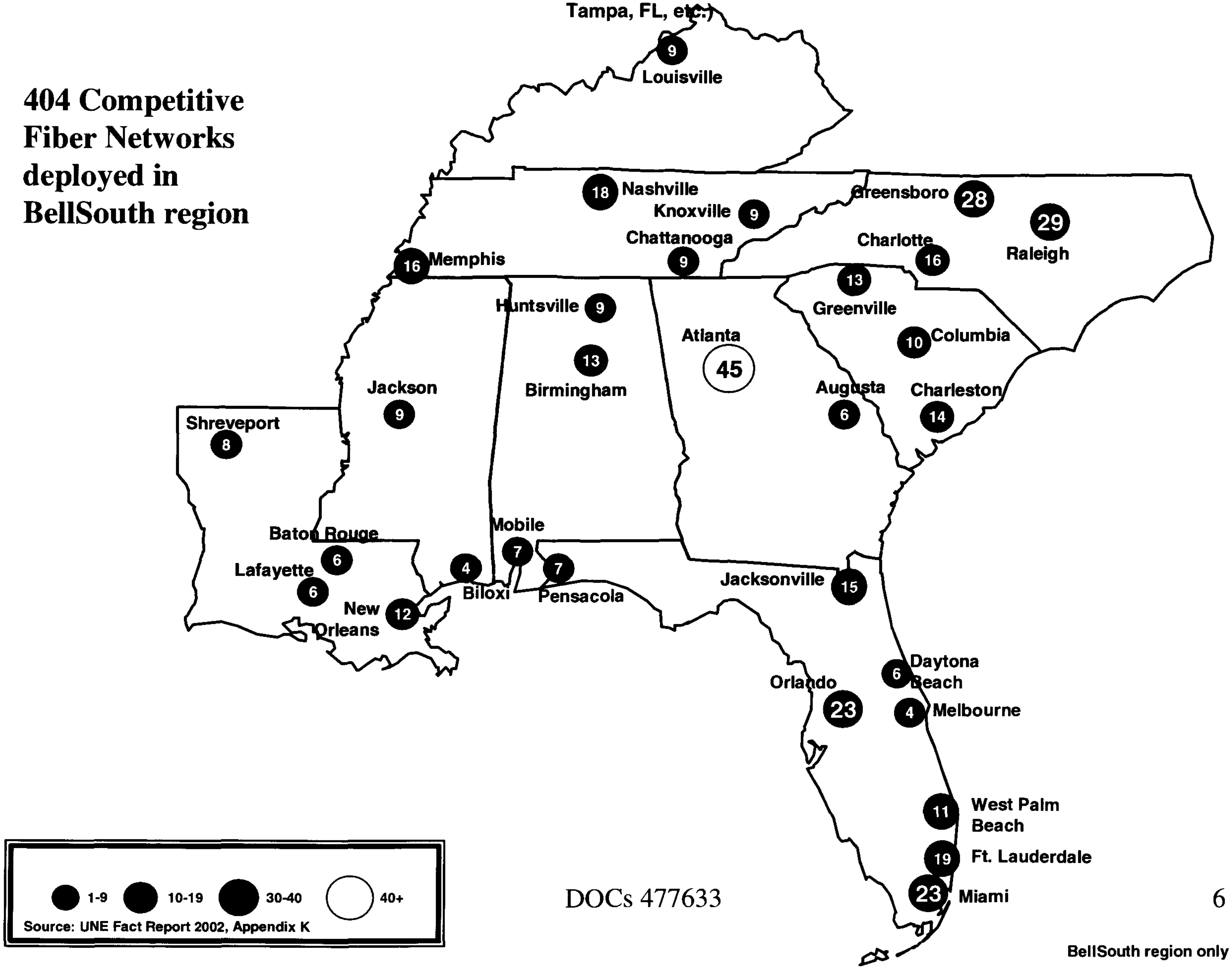
Ft. Lauderdale
Adelphia (1)
AT&T (3)
E.spire (1)
Florida Digital Network (1)
Mpower (1)
WorldCom (2)

West Palm Beach
AT&T (2)
ITC^Deltacom (1)
US LEC (1)

Operational CLEC Fiber Networks by MSA

(BellSouth MSAs Ranked in National Top 150, excluding MSAs where BellSouth does not have a significant service presence, e.g., Tampa, FL, etc.)

404 Competitive Fiber Networks deployed in BellSouth region



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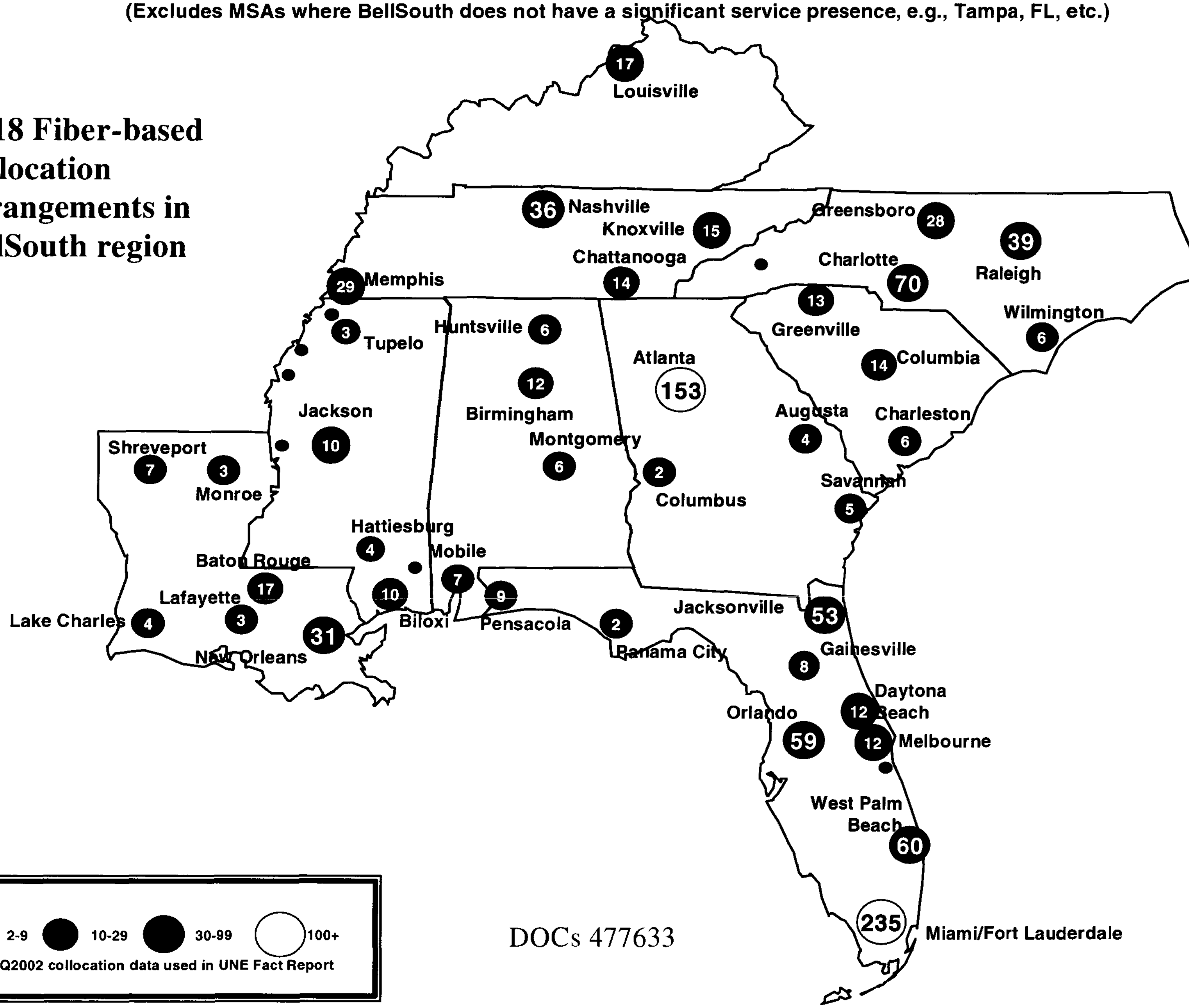
Fiber-Based Collocation by MSA

(Excludes MSAs where BellSouth does not have a significant service presence, e.g., Tampa, FL, etc.)

1,018 Fiber-based Collocation Arrangements in BellSouth region



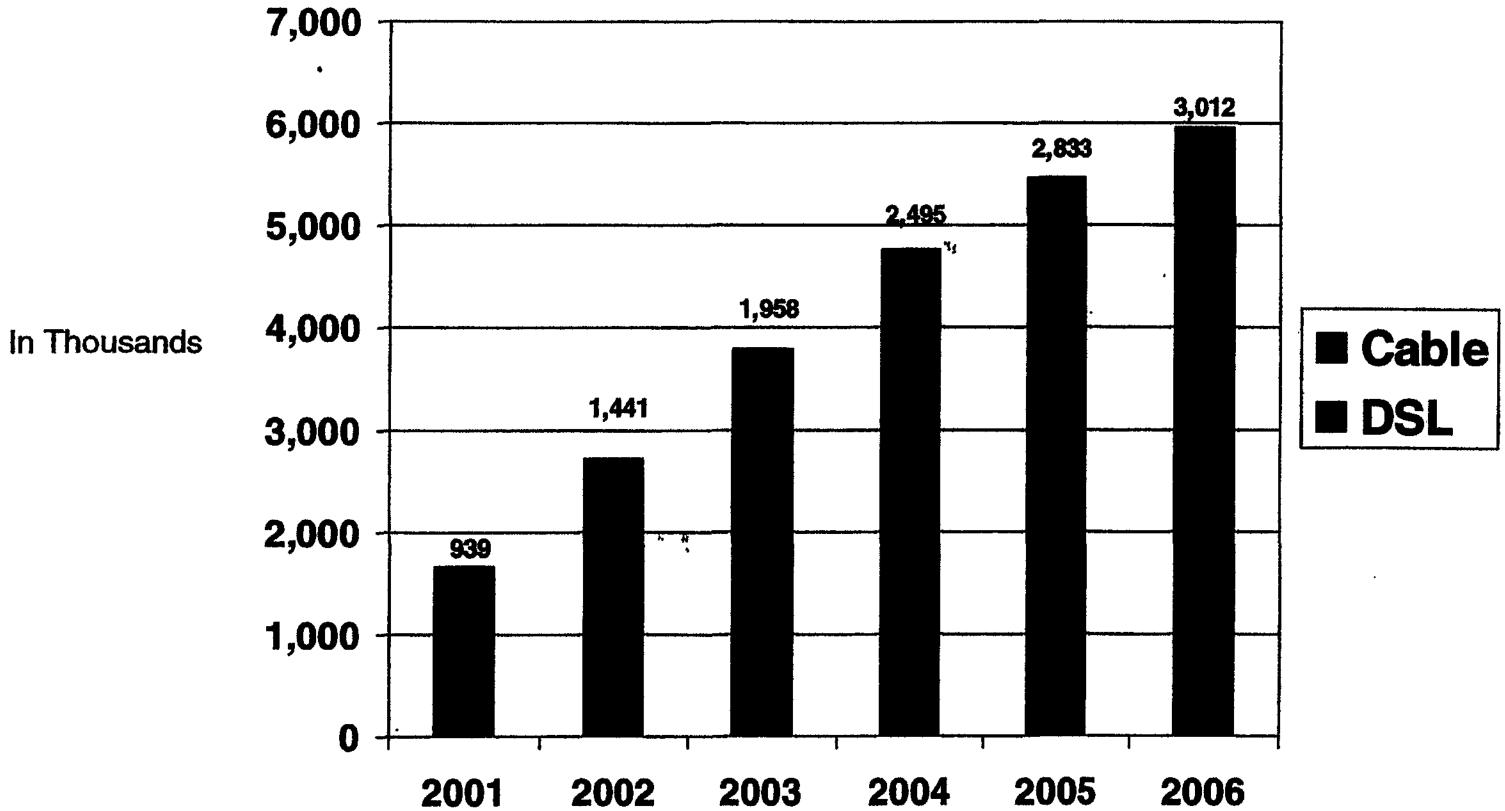
1 2-9 10-29 30-99 100+

Based on 1Q2002 collocation data used in UNE Fact Report 2002

Bold Action is Needed

- Special Access "Safe Harbors" Protect facilities-based competition: modifications should be fully vetted with Industry.
- Extensive relief for interoffice transport and high capacity loops is warranted, and would lessen issues arising from any subsequent safe harbor modification.
- Finding of no impairment for switching (and hence UNE-P) in all wire centers is justified by the existing record.
- At the least, the FCC should make initial impairment finding in most competitive areas – e.g. in areas served by switches > 5000 lines.

DSL & Cable Modem Subscribers – Small Business



Source: In-Stat/MDR (May 2002)